

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ACTUS, LLC,

Plaintiff,

v.

BANK OF AMERICA CORP., et al.

Defendants.

CIVIL ACTION NO. 2:09-cv-102-TJW

JURY TRIAL DEMANDED

STIPULATED MOTION FOR DISMISSAL WITH PREJUDICE

The plaintiff, Actus, LLC (“Actus”) and Defendant Bank of America Corporation (“BOA”), pursuant to Fed. R. Civ. P. 41(a)(2) and (c), hereby move for an order dismissing Plaintiff’s claims in this action against Defendant Bank of America Corporation WITH PREJUDICE and dismissing all counterclaims and pending motions between the parties as MOOT, subject to the terms of that certain agreement entitled “BANK OF AMERICA SETTLEMENT AGREEMENT” and dated August 31, 2009, with each Party to bear its own costs, expenses and attorneys fees.

Dated: September 11, 2009

Respectfully Submitted,

BANK OF AMERICA CORPORATION

ACTUS, LLC

By: /s/ David G. Wille

By: /s/ William E. "Bo" Davis, III

David G. Wille
Texas State Bar No. 00785250

William E. "Bo" Davis III
Texas State Bar No. 24047416

BAKER BOTTS L.L.P.

2001 Ross Avenue
Dallas, Texas 75201
Telephone: (214) 953-6500
Facsimile: (214) 661-4791
Email: david_wille@bakerbotts.com

The Davis Firm, PC

111 West Tyler Street
Longview, Texas 75601
Phone: 903-230-9090
Fax: 903-230-9661
Email: bdavis@bdavisfirm.com

**ATTORNEY FOR DEFENDANT
BANK OF AMERICA CORPORATION**

**ATTORNEY FOR PLAINTIFF
ACTUS, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 11th day of September, 2009.

/s/ William E. "Bo" Davis, III
William E. "Bo" Davis, III